

Chapter HRSC 5

PEER GROUPS

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Note: Chapter HRSC 5 was created as an emergency rule effective April 1, 1985.

HRSC 5.01 Using peer groups. The commission shall use peer groups of hospitals to review and evaluate each hospital's rate request, as provided in s. 54.11 (2), Stats., to determine if a hospital is exempt from review under s. HRSC 3.01 (3) and s. 54.21 (2) (b) 3, Stats., and to determine if a hospital is eligible for a plant depreciation incentive under s. HRSC 3.07 (2) (b).

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

HRSC 5.03 Initial creation of peer groups. The peer groups established by the Wisconsin hospital rate review program shall remain in effect and be used by the commission until the commission updates the peer groups, using either a new method that it creates by rule or the method specified in s. HRSC 5.05. The commission shall, by order, periodically update the peer groups as it deems necessary.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

HRSC 5.05 Method used to create peer groups. (1) COLLECTING DATA. (a) Hospital peer groups shall be created, and hospitals assigned to the appropriate peer group, based on the following variables:

1. Hospital volume.
2. Intensity.
3. Special services.
4. Outpatient equivalents.
5. Educational programs.

(b) The commission may require hospitals to submit information concerning the variables specified in par. (a) and may collect or verify this information from other sources. The commission may collect data for a revision of the peer groups as needed.

(2) **ASSIGNING A VALUE TO EACH VARIABLE.** Variables used in determining each hospital's placement in a peer group shall receive the following points:

Hospital volume.....	27.36
Intensity	16.84
Specialty services	31.58
Outpatient equivalents.....	11.57
Educational programs	<u>12.65</u>
Total	100.00

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(3) CALCULATING VARIABLES AND POINTS. (a) 1. Hospital volume shall be based on the annual number of hospital inpatient days. To reflect differences in the resources that are required to provide basic hospital services, hospital inpatient volume shall be differentiated into 16 basic services that each receive a relative value ranking. The number of inpatient days of a hospital in any of these basic service areas shall be multiplied by the relative value ranking for that service to determine the factored inpatient days assigned to the hospital for the service. The hospital with the highest total of factored inpatient days for all 16 basic services shall receive 27.36 points for the hospital volume variable. Each other hospital shall receive a percentage of the 27.36 available points, based on the ratio of its total factored inpatient days to those of the hospital with the highest total of factored inpatient days. Nursing home days are not included in calculating this variable.

2. The 16 basic hospital services and their relative value rankings are as follows:

<u>Relative value</u>	<u>Service</u>
3.00	Neonatal intensive care unit
2.75	Burn center
2.75	Mixed intensive care unit (medical/surgical/coronary/cardiac)
1.90	Intermediate acute care
1.37	Oncology unit
1.20	General pediatric medical/surgical unit
1.20	Orthopedic unit
1.20	Psychiatric unit
1.10	Obstetric unit
1.00	General adult medical/surgical unit
1.00	Hospice
1.00	Rehabilitation unit
0.92	Regular newborn nursery unit
0.85	Alcoholism/chemical dependency
0.75	Swing beds—skilled nursing facility
0.50	Swing beds—intermediate care facility

3. In this paragraph:

a. "Alcoholism/chemical dependency" means the provision of care or rehabilitative services to patients for whom the primary diagnosis is alcoholism or other chemical dependency.

b. "Burn center" means the provision of care in a distinct unit of the hospital to patients with severe burn injuries that are of a more intensive nature than that rendered in medical/surgical units. Staffing for the unit shall include a nurse specifically trained in care for the severely burned.

c. "General medical/surgical unit" means a medical or surgical unit in which acute care is provided to patients on the basis of physicians' orders and approved nursing care plans.

d. "General pediatric medical/surgical unit" means a distinct patient care unit that provides acute care to pediatric patients on the basis of physicians' orders and approved nursing care plans.

e. "Hospice" means a unit or program providing palliative care to terminally ill patients, consisting chiefly of the medical relief of pain and

provision of supportive services, and assistance to families who are adjusting to a patient's illness and death.

f. "Intermediate intensive care" means the provision of care to patients requiring care more intensive than that provided in the acute care area, yet not sufficiently intensive to require admission to an intensive care unit. Patients are usually admitted to this unit by transfer from an intensive care unit when their conditions improve. The unit shall be staffed by specially trained nursing personnel and shall contain monitoring and observation equipment for intensified, comprehensive observation and care. The unit may also be referred to as a definitive observation, step down or progressive care unit. Nursing time per patient shall generally exceed that provided in the hospital's general medical/surgical care unit by more than 50% but shall be generally less than 75% of the nursing time required for patients in the hospital's intensive care units.

g. "Mixed intensive care unit (medical/surgical/coronary/cardiac)" means the provision of care in a distinct unit of the hospital of a more intensive nature than usual medical/surgical care. Staffing of the unit shall be at a level twice that of a normal medical/surgical unit with specifically trained nursing personnel. The unit shall contain monitoring and specialized support equipment for patients who, because of shock, trauma or other life threatening conditions, require intensified, comprehensive observation and care.

h. "Neonatal intensive care unit" means a distinct unit of the hospital in which care is provided to newborn infants of a more intensive nature than the usual nursing care provided in newborn acute care units, on the basis of physicians' orders and approved nursing care plans. A nurse trained specifically in this specialty shall staff the unit at all times.

i. "Obstetric unit" means a distinct unit of the hospital that provides care to mothers following delivery on the basis of physicians' orders and approved nursing care plans. The unit's staff shall include one or more nurses trained in this type of care.

j. "Oncology unit" means a distinct patient care unit that provides care specifically for patients with neoplastic diseases. The unit's staff shall include one or more nurses who are specifically trained in this type of care.

k. "Orthopedic unit" means a distinct patient care unit that provides patient care specifically for the correction or prevention of skeletal deformities or injuries. The unit's staff shall include one or more nurses who are specifically trained in this type of care.

l. "Psychiatric unit" means a distinct unit of the hospital that provides diagnostic, treatment and supportive services to patients with mental or emotional disorders. The unit may also provide care to psychiatric patients that is more intensive than the usual care provided to psychiatric acute care patients. The unit shall be staffed with specifically trained personnel and contain specialized support services.

m. "Regular newborn nursery" means a nursery in which care is provided to newborn and premature infants, based on physicians' orders and approved nursing care plans.

n. "Rehabilitation unit" means a distinct unit of the hospital that provides coordinated multidisciplinary physical restorative services to inpa-

tients under the direction of a physician who is knowledgeable and experienced in rehabilitative medicine.

o. "Swing beds—intermediate care facility" means a hospital licensed acute care bed unit that has been designated by a hospital to provide either acute or long-term care services and has met the conditions necessary for medical assistance reimbursement. The unit shall provide health-related care and services to persons who do not require hospital or skilled nursing facility care but whose mental or physical condition requires services that can only be provided in an institution, above the level of room and board.

p. "Swing beds—skilled nursing facility" means a hospital licensed acute care bed unit, designated by a hospital to provide either acute or long-term care services, that has met the conditions necessary for medical assistance reimbursement. The patients treated in the unit shall require skilled technical or professional inpatient care, based on a physician's orders, directly from or under the supervision of a registered nurse, licensed practical vocational nurse, physical therapist, occupational therapist, speech pathologist or audiologist.

(b) Hospital intensity shall be determined as the difference between a hospital's total factored inpatient days, as calculated under par. (a), and its total unfactored inpatient days, with the difference divided by the hospital's total unfactored inpatient days. The definition of intensity, as specified in s. HRSC 1.01 (9), does not apply to this paragraph. The hospital with the highest value for its intensity variable shall receive 16.84 points. Each other hospital shall receive a percentage of the 16.84 available points, based on a ratio of its intensity variable value to that of the hospital with the highest intensity variable value.

(c) 1. Specialty services consist of 28 services that may be available in any hospital, which each receive a relative value ranking that reflects differences in the resources required to maintain the different specialty services. The hospital with the highest total relative value ranking for all specialty services shall receive 31.58 points. Each other hospital shall receive a percentage of the 31.58 available points, based on the ratio of its total specialty services relative value ranking to those of the hospital with the highest total of specialty services relative value ranking.

2. The 28 specialty services and their relative value rankings are as follows:

<u>Relative value</u>	<u>Specialty services</u>
15.0	Radiation therapy: level 1
12.0	Radiation therapy: level 2
6.0	Radiation therapy: level 3
10.0	Cardiac catheterization
10.0	Organ transplant surgery—solid organs and bone marrow
9.0	Burn center
9.0	Neonatal intensive care unit
8.0	Hemodialysis—chronic
8.0	Nuclear medicine
8.0	Open heart surgery
6.0	Computed tomography imaging
6.0	Emergency services: level 1

4.0	Emergency services: level 2
2.0	Emergency services: level 3
5.0	Blood bank
4.5	Pharmacy with full-time registered pharmacist
1.0	Pharmacy with part-time registered pharmacist
4.0	Pulmonary function
2.75	Organ bank
2.0	Ambulance service
1.5	Audiology
1.5	Electromyography
1.5	Family planning/genetic counseling
1.5	Occupational therapy
1.5	Social services department
1.0	Electroencephalography
1.0	Home care department
1.0	Speech pathology

3. In this paragraph:

a. "Ambulance service" means the operation and maintenance by the hospital of ambulance services to the ill and injured who require medical attention on a scheduled or unscheduled basis.

b. "Audiology" means the provision and coordination of services to persons with impaired peripheral or central auditory function. The services shall include the detection and management of any existing communication handicaps, centering in whole or in part on the hearing function. The services shall be provided by a certified audiologist employed by the hospital.

c. "Blood bank" means a unit accredited by the American association of blood banks with the responsibility for blood drawing, processing and distribution.

d. "Burn center" has the meaning specified in par. (a) 3. b.

e. "Cardiac catheterization" means the use of special diagnostic procedures necessary for the care of patients with cardiac conditions. Available procedures shall include the introduction of a catheter into the interior of the heart through a vein or artery or by direct needle puncture. The hospital shall perform these procedures in a laboratory or special procedures room.

f. "Computed tomographic imaging" means the necessary staff and equipment to perform computer tomographic scans of the head or whole body.

g. "Electroencephalography" means the provision of an electroencephalogram for the recording of electromotive variations in brain waves for use in diagnosis.

h. "Electromyography" means the provision of an electromyograph for the recording of electrical potential variations in muscles to facilitate diagnosis of muscular and nervous disorders.

i. "Emergency services: level 1" means the treatment of unscheduled outpatient services to patients whose conditions are considered to require immediate care. The hospital shall provide a broad range of comprehensive specialized resources and capabilities. The unit shall be

staffed 24 hours a day with an emergency room team that includes a physician who is on duty continually, with continual staffing by registered nurses and with a respiratory therapist who is on duty continually. A wide range of physician specialists shall be available on 20 minute call, including an anesthesiologist and cardiothoracic surgeon.

j. "Emergency services: level 2" means the treatment of unscheduled outpatient services to patients whose conditions are considered to require immediate care. The hospital shall have selected, advanced, specialized resources and capabilities. The unit shall be staffed 24 hours a day with an emergency room team that includes a physician who is either on duty or on call continually and with continual registered nurse coverage. Other specialized personnel shall be on call, including an anesthesiologist or nurse anesthetist and a cardiologist or internist versed in cardiology.

k. "Emergency services: level 3" means the treatment of unscheduled outpatient services to patients whose conditions are considered to require immediate care. The hospital shall have basic resources and capabilities. The unit shall be staffed 24 hours a day with a licensed physician and registered nurses either on duty or on call continually. Other specialized personnel shall be on call, including an anesthesiologist or a nurse anesthetist.

l. "Family planning/genetic counseling" means services provided through a qualified physician that offer family planning information and services, child spacing assistance, fertility testing and genetic counseling.

m. "Hemodialysis—chronic" means a designated area with the plumbing, electrical system, dialysis machine, bed or lounge chair and other equipment needed to perform dialysis on chronic dialysis patients.

n. "Home care department" means an organized program administered by the hospital that provides skilled nursing, other therapeutic treatment, social services and home health care services to patients in their places of residence. Each home care department shall meet the definition of a home health agency under s. HSS 133.02 (3).

o. "Neonatal intensive care unit" has the meaning specified in par. (a) 3. h.

p. "Nuclear medicine" means the use of the scientific and clinical discipline concerned with diagnostic, therapeutic (exclusive of sealed radium sources) and investigative use of radionuclides.

q. "Occupational therapy" means the provision of occupational therapy services prescribed by physicians and administered by, or under the direction of, a certified occupational therapist. The services shall be available exclusively to patients of the hospital at least 20 hours per week.

r. "Open heart surgery" means the performance of operations on the heart and intrathoracic great vessels, using a heart-lung bypass machine to perform the functions of the heart during surgery. The hospital shall have the necessary staff and equipment to perform this surgery.

s. "Organ bank" means a separate repository established by the hospital for the preservation of organs such as eyes, spleen, liver, vessels and bones.

t. "Organ transplant surgery" means the surgical removal of human hearts, kidneys, livers, spleens or bone marrow from a living donor or a deceased person immediately after death and the surgical grafting to a suitably evaluated and prepared patient. The hospital shall have the necessary staff and equipment to perform this surgery.

u. "Pharmacy" means a pharmacy unit that is supervised full-time or part-time by a registered pharmacist who is employed by the hospital.

v. "Pulmonary function" means a service that tests patients through the measurement of inhaled and exhaled gases, the analysis of blood and an evaluation of the patient's ability to exchange oxygen and other gases. The service shall be performed by specially trained personnel who initiate, monitor and evaluate patient performance, cooperation and ability during testing procedures. Equipment requirements shall include a plethysmograph, pulmonary exercise testing unit, gas dilution and gas diffusion test, blood gas analyzer and fiberoptic bronchoscopy unit.

w. "Radiation therapy: level 1" means the treatment of patients with cancer, other tumors or neoplasms by ionizing radiation. The hospital shall be capable of treating all forms of cancer, shall treat more than 300 patients annually in its level 1 unit, shall conduct postgraduate training programs in radiation oncology, shall conduct cancer treatment research and shall disseminate its research findings. The unit's staff shall include 2 radiation therapists, 2 full-time radiation oncologists, a full-time registered or licensed practical nurse, a dosimetrist, a full-time machinist or mold technician, a full-time board certified medical physicist for every 300 patients and a full-time radiation biologist. The radiation oncologist, medical physicist, nurse and machinist or mold technician may be shared with other hospital services or may be obtained through contracted services.

x. "Radiation therapy: level 2" means the treatment of patients with cancer, other tumors or neoplasms by ionizing radiation. The hospital shall be capable of treating most forms of cancer and shall treat more than 300 patients annually in its level 2 unit. The unit's staff shall include 2 radiation therapists, 2 full-time radiation oncologists, a full-time registered or licensed practical nurse, a full-time medical physicist for every 400 patients and a full-time machinist or mold technician. The radiation oncologist, medical physicist, nurse and machinist or mold technician may be shared with other hospital services or may be obtained through contracted services.

y. "Radiation therapy: level 3" means the treatment of patients with cancer, other tumors or neoplasms by ionizing radiation. The hospital shall be capable of treating some forms of cancer. The unit's staff shall include a radiation oncologist on the hospital's active or associate medical staff or on a consulting basis, a minimum of 2 radiation therapists for each megavoltage radiation therapy machine and medical physicist employed by the hospital or on a consulting basis. The radiation technologists may be shared with other hospital services or with other hospitals or may be obtained through contracted services.

z. "Social services department" means the provision of social services under the direction of a qualified social worker. The services shall be available exclusively to patients of the hospital at least 20 hours per week.

zm. "Speech pathology" means the evaluation and treatment of inpatients or outpatients with speech or language disorders under the direction of a certified speech pathologist. The services shall be available exclusively to patients of the hospital at least 20 hours per week.

(d) The outpatient equivalent variable reflects the resources required to provide services to different numbers of outpatients. The value of the outpatient equivalent variable shall equal the product of a hospital's gross annual outpatient revenue times its total annual factored inpatient days, divided by its gross annual inpatient ancillary revenue. The hospital with the highest value for its outpatient equivalent variable shall receive 11.57 points. Each other hospital shall receive a percentage of the 11.57 available points, based on a ratio of its outpatient equivalent variable value to that of the hospital with the highest outpatient equivalent variable value.

(e) 1. Education programs are subdivided into the following 3 categories, from which each hospital is awarded points:

a. A hospital shall receive 0.0875 points for each resident physician. No hospital may receive more than 7.38 points for its resident physicians.

b. A hospital with a hospital-based diploma nursing school or a 4-year nursing degree curriculum shall receive 3.16 points.

c. A hospital shall receive 0.5 points for each hospital-based and hospital-operated allied health program, accredited by a nationally recognized accrediting body. No hospital may receive more than 2.11 points for these programs.

2. Each hospital's points for education programs are determined independently based on the method specified in subd. 1 and are not, unlike the method used for the other 4 variables, awarded as a percentage of the available points after a ratio comparison.

(f) 1. The commission may, in order to analyze the effect of peer grouping on combined hospital and nursing home facilities, examine information on nursing home volume. These data are not used in calculating peer groups.

2. Nursing home volume shall be based on nursing home inpatient days for combined hospital and nursing home facilities. To reflect differences in the resources required to provide different types of nursing home care, nursing home volume shall be subdivided into 3 basic services that each receive a relative value ranking. The number of nursing home inpatient days for a hospital in any of these basic services shall be multiplied by the relative value ranking for that service to determine the factored nursing home inpatient days assigned to the combination facility for the service.

3. The 3 basic nursing home services and their relative value rankings are as follows:

<u>Relative value</u>	<u>Service</u>
0.75	Skilled nursing home care
0.50	Intermediate nursing home care
0.30	Self care

4. In this paragraph:

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a. "Intermediate nursing home care" means the provision of inpatient care by a facility that is licensed under s. 50.03, Stats., and meets the requirements of ch. HSS 132. The unit shall provide health-related care and services to persons who do not require hospital or skilled nursing facility care but whose mental or physical condition requires services that can only be provided in an institution, above the level of room and board.

b. "Self care" means the provision of supportive, restorative and preventive health care for ambulatory patients who are capable of caring for themselves under the supervision of a professional nurse.

c. "Skilled nursing home care" means the provision of inpatient care by a facility that is licensed under s. 50.03, Stats., meets the requirements of ch. HSS 132 and meets the requirements for participation in medicare. The patients treated in the unit shall require skilled technical or professional inpatient care, based on a physician's orders, directly from or under the supervision of a registered nurse, licensed practical vocational nurse, physical therapist, occupational therapist, speech pathologist or audiologist.

(4) CREATING GROUPS. After the 5 variables are computed for all hospitals, a computer clustering program is used to generate the peer groups. The program combines hospitals into clusters by use of a least squares statistical method, using data from all hospitals and all variables simultaneously. Hospitals are grouped into clusters in successive cycles, beginning with the assumption that each hospital is a single cluster. The program then combines into larger clusters those hospitals whose overall scores vary the least, until a preset number of clusters has been reached. Each cluster shall consist of 5 to 15 hospitals. The commission may modify computer-generated clusters or adjust the number of clusters specified in the program in order to eliminate inequities it perceives in the clusters.

Note: An example of how the computer program determines the variance of overall hospital scores can be seen in the chart below:

Hospital	Vol.	Intens.	Special Services	O/P Equiv.	Educn Progs.	Total
A	3.3	8.1	7.2	1.1	1.0	20.7
B	5.0	2.8	7.2	1.3	1.0	17.3
C	3.7	6.7	6.2	1.7	1.0	19.3
D	6.4	4.8	6.9	0.7	1.0	19.8

The program examines each potential cluster (A-B, A-C, A-D, B-C, B-D, C-D) to determine which pair of hospitals has the least variance in overall scores, determining variance as follows:

1. For the potential cluster A-B

$$\frac{[(5.0 - 3.3)^2 + (8.1 - 2.8)^2 + (7.2 - 7.2)^2 + (1.3 - 1.1)^2 + (1.0 - 1.0)^2]}{2} = 15.51$$

2. For the potential cluster A-C

$$\frac{[(3.7 - 3.3)^2 + (8.1 - 6.7)^2 + (7.2 - 6.2)^2 + (1.7 - 1.1)^2 + (1.0 - 1.0)^2]}{2} = 1.74$$

[etc.]

Of potential clusters A-B and A-C, the computer would choose cluster A-C since it has the lesser variance. Note that total points are not significant in the program, although they may indicate the general configuration of clusters.

(5) **CONTESTING STANDARDS BASED ON PEER GROUP DATA.** If the commission imposes a standard on which to base its determination of the reasonableness of a hospital's financial requirements and the standard is based on data derived from the peer groups, the hospital may contest the imposition of that standard. In order to contest the imposition of a standard under this subsection the hospital shall show, to the satisfaction of the commission, that other factors control its financial requirements which are not accounted for by the standard.

(6) **PEER GROUP APPEALS.** (a) If the commission updates the peer groups as specified in s. HRSC 5.03, hospitals may appeal the revision of peer groups as follows:

1. Any hospital may, within 30 days after the commission issues an order updating the peer groups, commence an appeal of its placement in a peer group.

2. Any hospital may appeal its placement in an updated peer group at any time if it has had a major change in circumstances, making its peer group placement inappropriate. A major change in circumstances means any of the following:

b. Merger or consolidation with another facility.

c. Major replacement of the hospital's physical plant and a major change in its medical staff.

(b) Upon receiving notice of an appeal under par. (a) the commission shall schedule a date for a class 1 contested case hearing. The chairperson of the commission shall designate one or more commissioners or a hearing examiner to preside at the hearing. At the hearing, the presiding officer shall determine if the hospital should be reassigned to a different peer group based on the following criteria:

1. The extent to which the appellant hospital's services differ from others in its peer group.

2. The difference in size of the appellant hospital from others in its peer group.

3. Whether the appellant hospital is urban but others in the peer group are primarily rural, or vice versa.

4. Whether the appellant hospital has major teaching programs that were not adequately represented during the creation of the peer groups.

(c) If the presiding officer at a hearing under par. (b) determines that the appellant hospital has been inappropriately placed in a peer group, the presiding officer shall determine proper assignment of the hospital. Unless the commission decides to review a presiding officer's decision within 10 days after its issuance, the presiding officer's decision is a final decision of the commission.

Note: The Wisconsin Hospital Rate Review Program used panels rather than contested case hearings to consider peer group appeals. Seated on these panels were one appointment made by the Wisconsin Hospital Association, one by the Department of Health and Social Services and one by Blue Cross/Blue Shield United.

(d) If a final decision reassigns an appellant hospital to a different peer group the commission shall recalculate any standards that were based on data derived from the peer group to which the hospital was initially as-

signed or to which the hospital was reassigned. The commission is not required to rerun the computer clustering program under sub. (4).

(e) No hospital may request an appeal on the grounds that the data it submitted on its peer group informational report were incomplete or incorrect.

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